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BEFORE THE ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission

1999 SEP -3 P 4: 05

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AZ CORP COMMISSION
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CARL J. KUNASEK
Chairman
JIM IRVIN
Commissioner
WILLIAM A. MUNDELL
Commissioner

DOCKETED BY

IN THE MATTER OF THE APPLICATION
OF U S WEST COMMUNICATIONS, INC.,
A COLORADO CORPORATION, FOR A
HEARING TO DETERMINE THE EARNINGS
OF THE COMPANY, THE FAIR VALUE OF
THE COMPANY FOR RATEMAKING
PURPOSES, TO FIX A JUST AND
REASONABLE RATE OF RETURN THEREON
AND TO APPROVE RATE SCHEDULES
DESIGNED TO DEVELOP SUCH RETURN.

DOCKET NO. T-01051B-99-0105

**MOTION TO COMPEL U S WEST COMMUNICATIONS, INC. TO
RESPOND TO COMMISSION STAFF DATA REQUESTS**

Staff of the Arizona Corporation Commission ("Commission Staff") hereby moves to compel U S WEST Communications, Inc. ("U S WEST") to respond to certain discovery requests identified herein, and in support, submits the following:

I. BACKGROUND

U S WEST refuses to provide Commission Staff with responses to eleven data requests which are critical to Staff's analysis of the Company's Application. U S WEST has objected to providing responses to the requests identified herein, despite repeated efforts by the Staff, through numerous telephonic meet and confer sessions, to meet the concerns identified by the Company or otherwise come to some compromise with respect to the data requested. The information requested is necessary to properly evaluate the Company's Application.

U S WEST's objections to providing this information are meritless. The information requested is relevant to U S WEST's application and is reasonably calculated to lead to admissible evidence. Much of the information requested relates to the allocation of investment and expenses between the Company's regulated and unregulated operations. Other requested information is needed to evaluate test year Research and Development (R&D) and

1 technology costs, to determine if they should be included in regulated rates, or to evaluate other
2 aspects of U S WEST's Application.

3 While some of the information may be confidential in nature or competitively
4 sensitive, the parties have executed a protective agreement and the Commission Staff has further
5 agreed to view what the Company believes to be highly sensitive material in an on-site visit at
6 U S WEST's premises, a process used for other sensitive materials.

7 Because this information is important to Staff's evaluation and ultimate
8 recommendations concerning U S WEST's Application, and the Staff's repeated efforts to
9 resolve these issues with U S WEST has not worked, Staff requests an expedited hearing on its
10 Motion.

11
12 **II. ARGUMENT**

13 U S WEST is objecting to providing information requested in a series of data
14 requests identified below by Commission Staff's consultants, Utilitech, relating to the
15 Company's business, network construction and operation planning, management wage increases
16 for 1998 and 1999, and the deployment of certain advanced and/or unregulated services. The
17 Company's objections are based in large part on relevancy and/or confidentiality grounds. Yet,
18 the Company does not contend that costs related to these activities or items are not included in
19 test year revenue requirements. Nor does the Company dispute that arrangements have been
20 made and proposed to prevent the disclosure of any competitively sensitive information.

21 Specifically the Company has objected to and refuses to provide responses to the
22 following requests:

- | | | |
|----|-------|--|
| 23 | 3-16 | Strategic Business Plans |
| 24 | 3-17 | Network Construction Planning |
| 25 | 3-18 | Operations Planning |
| 26 | 18-19 | Support for composite Management increase for 1999 |
| 27 | 18-20 | Support for composite Management increase for 1998 |
| 28 | 20-5 | Pension information prior to 1993 |

1	21-4	Plans to deploy mass market broadband internet access
2	21-5	Plans to deploy mass market entertainment video
3	22-9	Strategic Planning Process
4	22-10	Strategic Planning Documents
5	25-22	Internet Access

6
7 Staff believes that the Company's responses to these requests are critical to ensure
8 that costs are being fairly allocated to the regulated ratepayers. Commission Staff will address
9 each of the requests identified above, why U S WEST's objections are without merit and why
10 Staff needs this information in order to complete its analysis of U S WEST's Application.
11 Where the requests or objections are related, Staff will address those requests together.

12 **Staff Data Requests UTI 3-16, 3-17, 3-18**

13 Staff Data Request UTI 3-16 asks for the following information:

14 Please describe the process through which the Company conducts
15 its strategic business planning and provide complete copies of
16 USWC's most recent 5-year (or equivalent long-term) strategic
17 planning documentation and related short-term business plans,
indicative of the Company's strategic goals and objectives and
implementation plans associated with same.

18 UTI 3-17 states as follows:

19 Please describe the process through which the Company conducts
20 its network construction planning and provide complete copies of
21 USWC's most recent 5-year (or equivalent long-term) network
22 planning documentation and related short-term construction
budgets, indicative of the Company's network goals and objectives
and implementation plans associated with same.

23 UTI 3-18 requests the following information from the Company:

24 Please describe the process through which the Company conducts
25 its operations planning and provide complete copies of USWC's
26 most recent short-term operating budgets, indicative of the
27 Company's revenue, expense and service quality goals and
objectives and implementation plans associated with same.

28 U S WEST objects to providing the above-requested information on the grounds
that the requests "call for highly confidential information and are not reasonably calculated to

1 lead to the discovery of information relevant to the issues in this proceeding.” Staff strongly
2 disagrees that the requests are not reasonably calculated to lead to the discovery of information
3 relevant to the issues in this proceeding. Many rate case issues are directly affected by such
4 planning activity. For instance, U S WEST has asserted a need to recover an alleged deficiency
5 in its depreciation reserve, which is driven by the rate at which new network investment is being
6 made and old investment becomes obsolete. The strategic and network drivers for such new
7 investment and obsolescence is clearly relevant to understanding these important issues.
8 Another issue relates to the requested recovery of USW Advanced Technologies and Bellcore
9 R & D costs. The strategic/network/operational drivers of such costs are important to understand
10 to determine whether or not certain types of R&D costs/activities that were disallowed in the last
11 Arizona rate case should again be adjusted. In addition, costs associated with these U S WEST
12 efforts are included in the Company’s asserted revenue requirement.

13 With regard to the Company’s concerns regarding the highly confidential nature
14 of the data, Staff has executed a protective agreement with the Company. The agreement
15 controls the disclosure and production of documents. Staff will not disclose any confidential
16 information to the other parties in violation of this agreement. In addition, Staff has further
17 offered to view the confidential material in an in camera inspection on U S WEST’s premises.
18 Thus, the Company’s position that it does not want to disclose the information because the data
19 is highly confidential or otherwise competitively sensitive is meritless.

20 Finally, Staff also believes that it is in a unique position from other intervenors.
21 Staff is not a direct competitor of U S WEST, where concerns regarding disclosure of this type of
22 information normally arise. Staff is part of the Commission which has the responsibility under
23 Arizona law of ensuring that U S WEST’s rates are just and reasonable.

24 **Staff Data Requests 18-19 and 18-20**

25 UTI 18-19 and 18-20 are appended hereto as Exhibit A. They request
26 information related to Company proposed adjustments which include components for
27 management salary increases. U S WEST objected to providing this information on the grounds
28 that the “requests call for highly confidential information about U S WEST

1 employees...[and]...are not reasonably calculated to lead to the discovery of admissible
2 evidence.”

3 U S WEST’s objections are meritless. Once again, with regard to the highly
4 confidential or competitive sensitivity of this information, Staff has entered into a protective
5 agreement with U S WEST which would prevent Staff from releasing or disclosing any
6 confidential information to any other party. Further, the information requested is necessary to
7 evaluate aspects of the Company’s case. The Company has proposed certain adjustments which
8 include components for management salary increases. Staff needs the information requested to
9 determine whether the adjustments are reasonable.

10 **Staff Data Request UTI 20-5**

11 A copy of UTI 20-5 is appended hereto as Exhibit B. UTI 20-5 requests
12 information relating to pension costs recorded by USWC-Arizona in each year since the adoption
13 of FAS87. Mr. Redding states in his direct Testimony at p. 15 that customers benefited from
14 pension credits the Company recorded in the late 80’s and 90’s, in support of U S WEST’s
15 proposed inclusion of a pension asset in rate base. The requested information is reasonably
16 calculated to lead to admissible evidence that has been supplied in prior rate proceedings and is
17 relevant to the Staff’s evaluation of U S WEST’s proposal.

18 **Staff Data Requests UTI 21-4; 21-5; 25-22**

19 UTI Requests 21-4, 21-5 and 25-22 are appended hereto as Exhibit C. UTI 21-4
20 requests information relating to U S WEST’s plans to deploy mass market broadband internet
21 access products/services in Arizona. UTI 21-5 requests information from U S WEST relating to
22 its plans with respect to deployment of mass market entertainment video (CATV-liked)
23 products/services in Arizona. UTI Request 25-22 seeks information relating to the Company’s
24 plans to provide internet access services.

25 Staff needs this information to properly evaluate U S WEST’s application. The
26 costs of planning and development personnel, research and technology investment may be
27 included in test period expenses. The Company has included internet access revenues, expenses
28

1 and investment in quantifying its overall revenue requirement. Staff has requested test period
2 cost information in parts b and c of UTI 21-4 and 21-5 and part k of UTI 25-22.

3 Further, Staff would like supporting documentation to ensure that technology
4 planning and R&D activities and costs associated with broadband internet or video are not
5 included indirectly in any test period U S WEST costs or any affiliate charges to U S WEST.
6 Staff also would like information as to where such activities and costs are being recorded. If any
7 such costs are included, Staff needs to understand any linkage to regulated services that is
8 intended.

9
10 **Staff Data Requests UTI 22-9; 22-10**

11 UTI 22-9 requests the following information:

12 Please explain the strategic planning processes that occur within
13 USWI and within USWC, indicating the linkage and coordination
14 between the planning in each entity and distinguishing between the
15 functions performed within USWI in contrast to USWC. Identify
16 the normal planning cycle and all documents produced as a result
17 of same. In addition, please provide the amounts of test period
18 recorded costs that originate within USWI and within USWC, by
19 FCC Account (before and after the Company's year-end
20 annualization adjustment).

21 UTI 22-10 states as follows:

22 Please provide representative copies of the most currently prepared
23 strategic planning documents identified in the Company's response
24 to the immediately preceding request.

25 Please see discussion relating to UTI 3-16, 3-17 and 3-18.

26 **III. CONCLUSION**

27 Staff believes that the data requests identified above and submitted to U S WEST
28 are relevant and reasonably calculated to lead to admissible evidence. To the extent the requests
seek information that is proprietary or confidential, the parties have executed a protective

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1 agreement and Staff has agreed in some instances to an in camera inspection at U S WEST's
2 premises. Consequently, U S WEST's objections should be denied.

3 RESPECTFULLY SUBMITTED this 3RD day of September, 1999.

4
5
6 By: 

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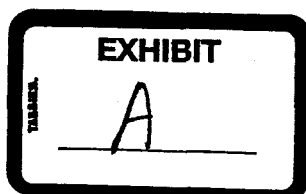
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UTI 18-19 Ref. USWC CONFIDENTIAL response to UTI 5-9 (Management Salary Increase). Please provide the following information with regard to the composite 3.63% Management increase for 1999 as calculated on Confidential Attachment B:

1. Are the Management Salary amounts for the months of February and March 1999 limited to basic wages -or- do these amounts also include premium pay, incentive compensation pay, etc.? Please explain.
2. If the response to item (a) above indicates that these amounts were not limited to basic wages, please provide the amount of basic wages for these two months and explain why USWC chose to quantify the composite percentage increase using forms of compensation other than just basic wages.
3. Please provide a copy of the source documentation supporting the management salary amounts and employee counts for the months of February and March 1999.

UTI 18-20 Ref. USWC CONFIDENTIAL response to UTI 5-12 (Management Salary Increase). Please provide the following information with regard to the composite 3.48% Management increase for 1998 as calculated on Confidential Attachment B:

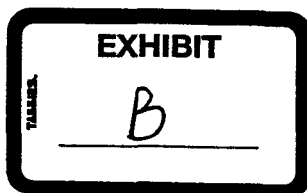
1. Are the Management Salary amounts for the months of February and March 1998 limited to basic wages -or- do these amounts also include premium pay, incentive compensation pay, etc.? Please explain.
2. If the response to item (a) above indicates that these amounts were not limited to basic wages, please provide the amount of basic wages for these two months and explain why USWC chose to quantify the composite percentage increase using forms of compensation other than just basic wages.
3. Please provide a copy of the source documentation supporting the management salary amounts and employee counts for the months of February and March 1998.



UTI 20-5 Ref. Direct Testimony of USWC witness Redding, page 15 (Pension Asset). Mr. Redding states that customers "benefitted from pension credits the Company recorded in the late 80's and 90's." Please provide the following:

1. Please provide the level of pension cost recorded by USWC-Arizona in each year since the adoption of FAS87. Please provide separately the amount of pension cost charged/credit to expense versus capital accounts.
2. Please provide the amount of USWC pension expense included in the test period of each ACC rate review, since the adoption of FAS87. Such proceedings would include, but not necessarily be limited to, ACC Dockets 84-100, 88-146, 91-004 and 93-183.
3. Referring to the response to item (b) above, please explain how USWC determined the amount of pension credits associated with Docket Nos. E-1051-91-004 and E-1051-88-146, which were resolved based on negotiated settlements.
4. Please provide the amount of actual pension contributions made by, or on behalf of, USWC-Arizona in each year since the adoption of FAS87.
5. Referring to the response to item (d) above, please provide the annual minimum and maximum pension contribution limits based on ERISA guidelines and IRC provisions.
6. Regarding items (a) through (e) above, please provide the appropriate prorate and/or intrastate separations factors, as necessary, to relate the amounts provided in response to this data request to USWC's Arizona Intrastate operations.

[Note: This discovery request is similar to portions of UTI-191, UTI-383, UTI-385, UTI-386, UTI-387 and UTI-388 in ACC Docket E-1051-93-183.]

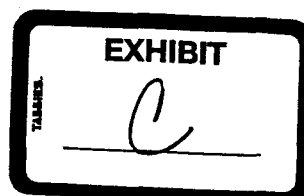


UTI 21-4 Please describe USWC's plans with respect to deployment of mass market broadband internet access products/services in Arizona, indicating the following:

1. Specific technologies planned for deployment, indicating any reliance upon or sharing of public switched network elements.
2. Actual and anticipated capital investment by year, indicating any capital amounts included in test period results.
3. Actual and anticipated expenses for research, development, consultants, engineering and deployment by year, indicating any expense amounts included in test period results.
4. Deployment dates and rollout schedules in Arizona.
5. Identification of regulated versus non-regulated service elements, indicating any affiliates to be involved and their planned roles/responsibilities.

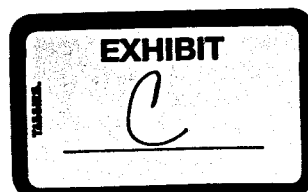
UTI 21-5 Please describe USWC's plans with respect to deployment of mass market entertainment video (CATV-liked) products/services in Arizona, indicating the following:

1. Specific technologies planned for deployment, indicating any reliance upon or sharing of public switched network elements.
2. Actual and anticipated capital investment by year, indicating any capital amounts included in test period results.
3. Actual and anticipated expenses for research, development, consultants, engineering and deployment by year, indicating any expense amounts included in test period results.
4. Deployment dates and rollout schedules in Arizona.
5. Identification of regulated versus non-regulated service elements, indicating any affiliates to be involved and their planned roles/responsibilities.



UTI 25-22: Ref. USWC response to UTI 18-24 and Confidential UTI 3-19 (FCC Deregulated Services). In the pending rate proceeding, USWC has proposed to include test year revenues, expenses and investment associated with the FCC Deregulated Services above-the-line for intrastate ratemaking purposes, in the absence of explicit deregulatory action by the Arizona legislature or Arizona Commission. In response to UTI 18-24, the Company has stated that Internet Access was originally established as an FCC Part 64 deregulated product in October 1997 and moved from USWC to an unregulated affiliate in 1998. This response also states that there is no FCC order specifically stating that Internet Access is a deregulated product. Please provide the following:

1. Why did USWC initially establish Internet Access as an FCC Part 64 deregulated product in October 1997 rather than as a regulated product? Please explain and provide a copy of any supporting information.
2. Why did USWC initially establish Internet Access as an FCC Part 64 deregulated product in October 1997 rather than with an unregulated affiliate? Please explain and provide a copy of any supporting information.
3. Did USWC ever seek a determination from either the FCC or the ACC, or rely on any other findings of the FCC or ACC, as to the status of Internet Access as an unregulated product/service? If so, please describe and provide a copy of each such finding.
4. Please identify the specific date in 1998 on which Internet Access was moved from USWC to an unregulated affiliate.
5. Please provide the name of the unregulated affiliate to which the Internet Access products/ services were transferred.
6. Did USWC seek any authority or approval from either the FCC or the ACC to move Internet Access from USWC to an unregulated affiliate? If so, please provide a copy of any order or other documentation authorizing such transfer. If not, please provide all support/ rationale for the transfer of such service without any regulatory authority.
7. Does USWC believe that it is within its sole discretion to determine whether and to what extent a new or existing service, such as Internet Access, can or should be initially established with an unregulated affiliate or subsequently transferred from USWC to an unregulated affiliate? Please explain and provide copies of any supporting documentation.
8. Please supplement the Confidential response to UTI 3-19 with the amount of monthly revenues, expenses and investment (in a format substantially similar to the referenced response) associated with Internet Access following the transfer of this product/ service to an unregulated affiliate.
9. Referring to the listing of FCC product categories provided in the response to UTI 3-19, please identify each product/service which USWC believes can be similarly transferred to an unregulated affiliate without express authorization from either the FCC or the ACC.



10. Since USWC's last Arizona rate proceeding, please identify and describe each FCC deregulated service (or service originally established as a Part 64 FCC deregulated product) which has been similarly transferred from USWC to an unregulated affiliate.